

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

IN THE MATTER OF:

CASE NO. 11-13644

NEW HOLLAND DAIRY, LLC

Chapter 11

Debtor

**EMERGENCY MOTION FOR USE OF
CASH COLLATERAL**

Comes now New Holland Dairy, LLC, Debtor and Debtor-in-Possession, by counsel, and files its Emergency Motion for Use of Cash Collateral pursuant to Bankruptcy Code §363(c)(2)(B)(3) and Bankruptcy Rule 4001(b) and states:

1. New Holland Dairy, LLC filed for relief under chapter 11 of the United States Bankruptcy Code on September 27, 2011. It is organized in the state of Indiana and operates a dairy farm in the state.

2. New Holland Dairy, LLC was formed in October, 2005, with operations in Wells County, Indiana. The Debtor currently employs 15 people.

3. New Holland Dairy, LLC is indebted to Bank of America in the approximate amount of \$3,546,000.00. Bank of America asserts a blanket lien on the assets of the Debtor including deposit accounts, accounts receivable and proceeds thereof.

4. Debtor believes the value of assets subject to the Bank's security interest is less than the Bank's claim. Currently, the value of the Bank's security interest in cash collateral is unknown.

5. There is an immediate need for the Debtor to use cash collateral in the operation of its business including funds presently held in deposit accounts in order to pay its employees and to preserve the value of the ongoing business.

6. Attached hereto as Exhibit "A" is an Emergency Budget prepared by the Debtor. The expenses shown therein are the expenditures for which New Holland Dairy, LLC requires use of cash collateral on an immediate basis to maintain and preserve its business operations.

7. The use of cash collateral beyond the period of the projection in the attached Exhibit "A" going forward will be set forth in an Operating Budget which Debtor is presently completing. The Operating Budget will provide for payment of wages and expenses for the continuing operation of the dairy and preservation of collateral in the chapter 11 proceeding.

8. As adequate protection for the use of cash collateral, Debtor will offer a replacement lien on assets to the Bank and each secured creditor to the full extent of the value of that creditor's lien at the commencement of the case. Further, Debtor shall provide financial reports to the Bank and other secured creditors herein to provide ongoing information as to the status of operations, milk sales and the creation of post-petition accounts receivable. Debtor believes that through continuous operation, it can maintain and increase the value of accounts receivable, preserving and maintaining the value of the business operation and thereby adequately protecting Debtor's use of cash collateral herein.

9. Debtor requests a preliminary hearing so soon as the Court's calendar will permit to consider Debtor's request to use cash collateral consistent with the Emergency Budget. Debtor has 1200 head of cattle that must be fed and maintained on a daily basis. Without the immediate use of cash collateral, the Debtor's operations will be significantly impaired in that the productivity of the dairy cows, indeed their very survival, is in jeopardy. Further Debtor is in need of the use of cash collateral to fund necessary payroll, including payroll for September 30, 2011.

10. Debtor requests the Court set a preliminary hearing to consider the use of cash collateral, for payment of those expenses identified as necessary to provide for the uninterrupted operation of

the business so as to avoid immediate and irreparable harm to the estate.

WHEREFORE, Debtor respectfully requests the Court authorize use of cash collateral consistent with the Debtor's request as set forth in this Emergency Motion, and for all other relief just and proper in the premises.

Respectfully submitted,

SKEKLOFF, ADELSPERGER & KLEVEN LLP

/s/ Daniel J. Skekloff

Daniel J. Skekloff (#146-02)

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927 S. Harrison St.

Fort Wayne IN 46802

Telephone: (260) 407-7000

Attorneys for Debtor

CERTIFICATE OF SERVICE

The undersigned, who is duly admitted to practice law in the State of Indiana and before this Court, hereby certifies that a copy of the above and foregoing was transmitted electronically through the Bankruptcy Court's ECF System, on September 27, 2011, to the following:

Office of the United States Trustee
One Michiana Square, Suite 555
100 E. Wayne St.
South Bend IN 46601

The undersigned further certifies that a copy of the above and foregoing was sent by first class United States mail, postage prepaid on September 27, 2011, to the following:

New Holland Dairy, LLC
c/o Gerritt Houtjes
1290 N. Shoop Avenue
Suite 140
Wauseon OH 43567

Bank of America
P.O. Box 2864
FL0-100-04-24
Building 100 4th Floor
Jacksonville FL 32232-9923

/s/ Daniel J. Skekloff
Daniel J. Skekloff

EXHIBIT A

	WEEK OF OCT 1, 2011	WEEK OF OCT 8, 2011	WEEK OF OCT 15, 2011	WEEK OF OCT 22, 2011	WEEK OF OCT 29, 2011
Beginning balance	\$ 480,085.93	\$ 415,635.93	\$ 687,385.93	\$ 551,735.93	\$ 583,485.93
Milk Income		\$ 350,000.00		\$ 150,000.00	
Cull Cow Income	\$ 10,000.00			\$ 10,000.00	
TOTAL INCOME	\$ 490,085.93	\$ 765,635.93	\$ 687,385.93	\$ 711,735.93	\$ 583,485.93
<u>PAYROLL EXPENSES</u>					
Gross Payroll		\$ 17,000.00		\$ 17,000.00	
Carsten Stoeve		\$ 2,600.00		\$ 2,600.00	
Heather Boger	\$ 850.00	\$ 850.00	\$ 850.00	\$ 850.00	\$ 850.00
Gerrit Houtjes	\$ 1,250.00	\$ 1,250.00	\$ 1,250.00	\$ 1,250.00	\$ 1,250.00
Emp Housing	\$ 1,850.00				\$ 1,850.00
Emp Utilities	\$ 700.00		\$ 700.00		
<u>VET EXPENSES</u>					
Dead cow removal	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00
Vet expenses	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00
Animal Health Sup	\$ 2,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
<u>CUSTOM HIRE</u>					
Manure Hauling			\$ 20,000.00		
Harvesting				\$ 10,000.00	
<u>FEED</u>	\$ 45,000.00	\$ 45,000.00	\$ 45,000.00	\$ 85,000.00	\$ 45,000.00
<u>FUEL</u>					
Diesel	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Propane	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
<u>REPAIRS</u>	\$ 1,000.00	\$ 1,850.00	\$ 1,850.00	\$ 1,850.00	\$ 1,850.00
<u>SUPPLIES</u>	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00
<u>UTILITIES</u>					
Electric	\$ 14,500.00		\$ 17,000.00		
Phone	\$ 300.00		\$ 300.00		
Insurance	\$ 300.00		\$ 5,000.00		\$ 300.00
<u>LEASES</u>					
Real Estate Lease			\$ 34,000.00		
TOTAL EXPENSES	\$ 74,450.00	\$ 78,250.00	\$ 135,650.00	\$ 128,250.00	\$ 60,800.00
ENDING CASH BALANCE	\$ 415,635.93	\$ 687,385.93	\$ 551,735.93	\$ 583,485.93	\$ 522,685.93

additionally the September 30 Payroll will need to be paid: Approximately \$22K